

Stephen M. Doniger (SBN 179314)
stephen@donigerlawfirm.com
Scott Alan Burroughs (SBN 235718)
scott@donigerlawfirm.com
Trevor W. Barrett (SBN 287174)
tbarrett@donigerlawfirm.com
Justin M. Gomes (SBN 301793)
jgomes@donigerlawfirm.com
DONIGER / BURROUGHS
603 Rose Avenue
Venice, California 90291
Telephone: (310) 590-1820
Attorneys for Plaintiff
UNITED FABRICS INTERNATIONAL, INC.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

UNITED FABRICS INTERNATIONAL,
INC., a California Corporation,

Plaintiff,

v.

DILLARD’S, INC., a Delaware
Corporation; B & J ACCESSORIES,
INC., a Texas Corporation, individually
and doing business as “ISABEL
CORPORATION”; and DOES 1-10,

Defendants.

Case No.:

COMPLAINT FOR:

1. COPYRIGHT INFRINGEMENT;
2. VICARIOUS AND
CONTRIBUTORY COPYRIGHT
INFRINGEMENT

Jury Trial Demanded

United Fabrics International, Inc. (“UFI”), by and through its undersigned
attorneys, hereby prays to this honorable Court for relief based on the following:

JURISDICTION AND VENUE

1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., §§ 101,
et seq.

SUBJECT DESIGN:



10. Plaintiff applied for and received a United States Copyright Registration for the Subject Design.

11. Prior to the acts complained of herein, Plaintiff sampled and sold fabric bearing the Subject Design to numerous parties in the fashion and apparel industries.

12. Prior to the acts complained of herein, Plaintiff is informed and believes and thereon alleges that, following this distribution of fabric bearing the Subject Design, and without Plaintiff's authorization, Defendants, and each of them, manufactured, distributed, and/or sold fabric and/or garments comprised of fabric featuring a design that is identical or substantially similar to the Subject Design (the "Subject Product"). One non-inclusive exemplar is set forth below alongside the Subject Design:

1 2 3 4 5 6 7 8 9 10 11 12	Subject Design 	Subject Product 
13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	Detail 	Detail 

FIRST CLAIM FOR RELIEF

(For Copyright Infringement – Against All Defendants, and Each)

13. Plaintiff repeats, realleges, and incorporates herein by reference as though fully set forth, the allegations contained in the preceding paragraphs of this complaint.

14. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to the Subject Design including, without limitation, through (a) direct access to Plaintiff's showroom and design library; (b) access to illegally distributed copies of Subject Design by third-party vendors and/or Doe Defendants, including without limitation international and overseas converters and printing mills; (c) access to Plaintiff's strike-offs and samples, and (d) garments manufactured and sold to the public bearing fabric lawfully printed with the Subject Design by Plaintiff for its customers.

15. Plaintiff is informed and believes and thereon alleges that one or more of the Defendants manufactures garments or is a garment vendor. Plaintiff is further informed and believes and thereon alleges that said Defendant has an ongoing business relationship with Defendant retailer, and each of them, and supplied garments to said retailer, which garments infringed the Subject Design in that said garments were composed of fabric which featured an unauthorized print design(s) that were identical or substantially similar to the Subject Design, or were an illegal modification thereof.

16. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, infringed Plaintiff's copyright by creating, making, or developing directly infringing or derivative works from the Subject Design and by producing, distributing or selling garments which infringe the Subject Design through a nationwide network of retail stores, catalogues, and through on-line websites.

1 17. Due to Defendants' acts of infringement, Plaintiff has suffered substantial
2 damages to its business in an amount to be established at trial.

3 18. Due to Defendants' acts of infringement, Plaintiff has suffered general and
4 special damages in an amount to be established at trial.

5 19. Due to Defendants' acts of copyright infringement as alleged herein,
6 Defendants, and each of them, have obtained direct and indirect profits they would
7 not otherwise have realized but for their infringement of the Subject Design. As
8 such, Plaintiff is entitled to disgorgement of Defendant's profits directly and
9 indirectly attributable to Defendant's infringement of the Subject Design in an
10 amount to be established at trial.

11 20. Plaintiff is informed and believes and thereon alleges that Defendants, and
12 each of them, have committed copyright infringement with actual or constructive
13 knowledge of Plaintiff's rights such that said acts of copyright infringement were,
14 and continue to be, willful, intentional and malicious, subjecting Defendants, and
15 each of them, to liability for statutory damages under Section 504(c)(2) of the
16 Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per
17 infringement.

18 **SECOND CLAIM FOR RELIEF**

19 (For Vicarious and Contributory Copyright Infringement - Against All Defendants)

20 21. Plaintiff repeats, realleges and incorporates herein by reference as though
21 fully set forth the allegations contained in the preceding paragraphs of this
22 complaint.

23 22. Plaintiff is informed and believes and thereon alleges that Defendants
24 knowingly induced, participated in, aided and abetted in and profited from the illegal
25 reproduction and/or subsequent sales of garments featuring the Subject Design as
26 alleged herein.

1 23. Plaintiff is informed and believes and thereon alleges that Defendants, and
2 each of them, are vicariously liable for the infringement alleged herein because they
3 had the right and ability to supervise the infringing conduct and because they had a
4 direct financial interest in the infringing conduct.

5 24. By reason of the Defendants', and each of their, acts of contributory and
6 vicarious infringement as alleged above, Plaintiff has suffered and will continue to
7 suffer substantial damages to its business in an amount to be established at trial, as
8 well as additional general and special damages in an amount to be established at
9 trial.

10 25. Due to Defendants', and each of their acts of copyright infringement as
11 alleged herein, Defendants, and each of them, have obtained direct and indirect
12 profits they would not otherwise have realized but for their infringement of Subject
13 Design. As such, Plaintiff is entitled to disgorgement of Defendants' profits directly
14 and indirectly attributable to Defendants' infringement of the Subject Design, in an
15 amount to be established at trial.

16 26. Plaintiff is informed and believes and thereon alleges that Defendants, and
17 each of them, have committed acts of copyright infringement, as alleged above,
18 which were willful, intentional and malicious, which further subjects Defendants,
19 and each of them, to liability for statutory damages under Section 504(c)(2) of the
20 Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per
21 infringement. Within the time permitted by law, Plaintiff will make its election
22 between actual damages and statutory damages.

23 **PRAYER FOR RELIEF**

24 Wherefore, Plaintiff prays for judgment as follows:

25 **Against All Defendants**

26 27. With Respect to Each Claim for Relief

- a. That Defendants, their agents and employees be enjoined from infringing Plaintiff's copyrights in any manner, specifically those for the Subject Design;
- b. That Plaintiff be awarded all profits of Defendants plus all losses of Plaintiff, plus any other monetary advantage gained by the Defendants through their infringement, the exact sum to be proven at the time of trial, or, if elected before final judgment, statutory damages as available under the Copyright Act, 17 U.S.C. §§ 101, *et seq.*;
- c. That Plaintiff be awarded its attorneys' fees as available under the Copyright Act U.S.C. §§ 101, *et seq.*;
- d. That a constructive trust be entered over all Infringing Product and any revenues derived from the sales or distribution of Infringing Product;
- e. That Plaintiff be awarded pre-judgment interest as allowed by law;
- f. That Plaintiff be awarded the costs of this action; and
- g. That Plaintiff be awarded such further legal and equitable relief as the Court deems proper.

Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P. 38 and the 7th Amendment to the United States Constitution.

Respectfully submitted,

Dated: May 2, 2016

By: /s/ Scott Alan Burroughs
Scott Alan Burroughs, Esq.
Trevor W. Barrett, Esq.
Justin M. Gomes, Esq.
DONIGER / BURROUGHS
Attorneys for Plaintiff
United Fabrics International, Inc.